IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No.3498 of 2006 (O&M)

Date of decision : 14.9.2006.

Madan Lal & sons.

.....Petitioner.

Versus

Yoginder Sharma & Ors.

.....Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr. Veneet Sharma, Advocate
for the petitioner.

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VINOD K. SHARMA,J.(ORAL)

The present revision petition has been filed against the order dated 2811.2003 passed by the learned Civil Judge (Sr.Divn.), Fatehgar Sahib dismissing the objections filed by the petitioner against an execution of the decree in favour of the decree-holder and the order dated 5.11.2006 of the learned Additional District Judge (Fast Track Court) dismissing the appeal.

The learned executing court came to the conclusion that the decree was passed in favour of the decree holder in pursuance to the agreement to sell which was passed prior to attachment and had relied upon the judgment of the Hon'ble Supreme Court in the case **Vannarakkal Kallalathil Sreedharan Vs. Chandramaath Balakrishnan and another** 1990 Civil Court Cases 526.

The learned counsel for the petitioner contends that in view of the provision of Section 64 C.P.C, as amended, the agreement to sell could

not have been taken- note of to defeat the rights of the petitioner. For this contention he has placed reliance on the judgment of Hon'ble Supreme Court in **Salem Advocate Bar Association, Tamil Nadu Vs. Union of India** 2005(3) Civil Court Cases 420 (S.C.). However, the learned executing Court has taken into consideration the amended provisions and has held that the same would not apply retrospectively to the cases where the agreement to sell was executed prior to such amendment.Accordingly, it was held that the amendment is not applicable to the facts of the present case.

There is no illegality or impropriety in the order passed by the learned Courts below which may call for interference by this Court under Article 227 of the Constitution of India.

Dismissed on merit as well as on account of delay.

September 14,2006 **(VINOD K. SHARMA)**
'sp' **JUDGE**